



5. Also on April 5, 2016, Dakota Access filed an application for waivers of procedures and time schedules established under North Dakota Century Code sections 49-22-07.2, 49-22-08, 49-22-08.1, 49-22-13, and North Dakota Administrative Code section 69-06-01-02, requiring separate filings, separate notices, hearings, and certain time schedules on such applications.

6. On April 19, 2016, Dakota Access filed an amended application for waivers of procedures and time schedules, requesting that the Commission waive the Notice of Opportunity for Hearing under North Dakota Century Code section 49-22-07.2. Also on April 19, 2016, Dakota Access filed information supplemental to its application for an amended certificate of corridor compatibility and an amended route permit.

7. After issuance of a Notice of Filings and Opportunity for Hearing, on May 24, 2016, the Commission granted all but one of the requested reroutes; namely, the proposed reroute referred to as Reroute Location Number 50.

8. The stated basis for the Commission not granting the proposed reroute for Reroute Location Number 50 was that further information was required as to the plans of Dakota Access relating to the crossing of an area south of the Little Missouri River in Section 35, Township 148 North, Range 96 West, Dunn County, North Dakota. The Commission raised a concern that this area south of the Little Missouri River is a geologically unstable avoidance area under North Dakota Administrative Code Section 69-06-08-02(2)(d). The Commission had no objection with respect to Reroute Location Number 50 as related to the area north of the Little Missouri River.

9. The area included in the proposed reroute referred to as Reroute Location Number 50 is comprised of lands in Dunn County in North Dakota depicted on Exhibit "A" attached hereto.

10. The area north of the Little Missouri River is an area referred to as the "Buffalo Ranch" or the "Figure Four Ranch" recently acquired and currently owned by the Three Affiliated Tribes of the Fort Berthold Indian Reservation (the "TAT").

11. Dakota Access negotiated with representatives of the TAT for nearly two years before reaching an agreement for an easement for construction and installation of the pipeline on the Buffalo Ranch as depicted by the yellow line (Preferred Route) and green line (Final Option 3) on Exhibit "A," which join to include a portion of Reroute Location Number 50.

12. The agreement entered into between Dakota Access and the TAT provided, *inter alia* (i) a route different than the one approved by the Commission for the Project; (ii) a horizontal directional drill installation at a cliff location; (iii) the use of thicker wall pipe for the horizontal directional drill installation; (iv) coordinated reclamation efforts with the TAT generally and MHA Nation Energy Division, or such other designated TAT Agency, specifically; and (v) compliance with an Energy Response Plan approved by the TAT.

13. The agreement between Dakota Access and the TAT to reroute the pipeline on the Buffalo Ranch as depicted on Exhibit "A" provides for a route through an area on the south side of the Little Missouri River that is less susceptible to landslides, as opposed to the area crossed by the permitted Route for the Project which is much more susceptible to landslides. *See* Exhibit "A". Studies have been conducted for Dakota Access to confirm this information.

14. Attached hereto as Exhibit “B” is a Memorandum dated May 27, 2016 prepared by GeoEngineers, 3050 South Delaware, Springfield, Missouri 65804. The Memorandum describes Reroute Location 50 south of the Little Missouri River and explains how the proposed route will avoid historical landslide areas. Exhibit “B” also describes the alternative routes reviewed for the Project and why Reroute Location 50 was chosen as the most viable route.

15. Figure 1 to Exhibit “B” depicts with a red line the route previously approved by the Commission by Route Permit 191 for the Project; the dark blue line depicts the proposed Reroute Location 50; and the light blue line depicts the location of the Little Missouri River.

16. Based on the review of the route options by GeoEngineers, the Project was previously sited in a geologically unstable Avoidance Area, depicted by the red line on Figure 1. Proposed Reroute Location 50, depicted by the dark blue line on Figure 1, falls outside the Landslide Complex and outside of the geologically unstable Avoidance Area.


17. The Memorandum further explains that the proposed Reroute Location 50 south of the Little Missouri River will cross an area GeoEngineers interprets as geologically stable.

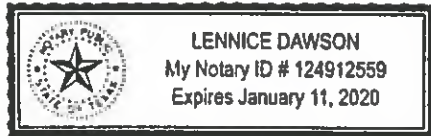
FURTHER AFFIANT SAYETH NOT.

  
Joey Mahmoud

Subscribed and sworn to before me  
this 1 day of ~~May~~, 2016.

*June*

  
Notary Public



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